

so far as they will go; considering the surplus as a *residuum* of the real assets which had been taken from the hands of the heirs. But such petitioning creditor will be required to establish his claim; to show, by the usual proofs or admissions of the party, the insufficiency of the personal estate of the deceased to pay his debts; to notify his heirs, that they may have an opportunity of contesting the allegations of the petitioner, and the justice of his claim or that of any other creditor who may afterwards come in, as is allowed on a creditors' bill, by merely filing the voucher of his claim; and also, he or the trustee to give notice in the usual way, to the creditors to bring in their claims.

Whereupon it is ordered, that the surplus of the proceeds of the sale of the said mortgaged estate be applied to the satisfaction of the debts of the said *Jonathan N. Laughlin* deceased, unless good cause be shewn to the contrary on the second day of June next. Provided a copy of this order, together with a copy of the said petition, be served on the said defendants on or before the 12th day of April next. And it is further ordered, that the said trustee, by publication to be inserted in some newspaper, twice a week for three successive weeks before the twelfth day of April next, give notice to the creditors of the said late *Jonathan N. Laughlin* to file the vouchers of their claims in the chancery office, on or before the second day of June next.

After which, upon the usual proof and certificate that notice had been given, and publication made as required by this order, the matter was submitted.

9th July, 1828.—BLAND, *Chancellor*.—Ordered, that the matter of the said petition be, and the same is hereby taken *pro confesso*; no cause having been shewn, although notice has been given as

a similar case; and the husband was required to give good security, (considering him as tenant by the courtesy,) that her children should have the money after his death.

29th November, 1813.—KILTY, *Chancellor*.—On the within petition notes have been filed by the counsel on behalf of the heirs, and it has been submitted on the part of the petitioner. The original bill or petition appears to have been filed under the 12th section of the act of 1785, ch. 72, the intention of which appears to have been to turn the land into money for the purpose of division. Which sale the court is not bound to order unless for the interest and advantage of all parties. And the practice has been, as far as the Chancellor has been informed, to divide the proceeds as personal estate. And the acts respecting widows entitled to dower, and tenants by the courtesy, are in the same spirit. It is therefore, ordered, that the part allotted by the auditor to Roderick Warfield the petitioner, and hitherto reserved, be paid to him in the manner directed as to the others. (*Jones v. Jones, ante, 443.*)